

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

RODERICK BO JACKSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CV414-249
)	
KEVIN JOSEPH GROGAN, <i>et al.</i> ,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff Roderick Bo Jackson brings a 42 U.S.C. § 1983 action in this Court against the police who arrested him on charges that resulted in his state court criminal prosecution.¹ Doc. 1. He admits that he

¹ This is one of four civil cases Jackson has commenced in this Court related to his arrest on September 30, 2013 for aggravated assault and other charges. In each case Jackson alleges that one or more state officials (a police detective, prosecutor, and/or judge) violated his constitutional rights during the investigation and prosecution of the state criminal charges. Doc. 1 at 5-9; *Jackson v. Phillips*, CV415-127 (filed May 11, 2015); *Jackson v. Grogan*, CV415-79 (filed Apr. 1, 2015); *Jackson v. Ruffini*, CV414-250 (filed November 17, 2014). Jackson's central claim is this: although he was properly charged with, and confessed to, the misdemeanor offense of obstruction by fleeing, he was falsely charged and prosecuted for various felony offenses (each dependent upon his possession of a firearm that he denies ever having.). Since the filing of these complaints, Jackson was tried by a jury, convicted, and sentenced in the Superior Court of Chatham County, Georgia. See attached criminal docket from the state court website (reflecting his sentencing on Aug. 7, 2015).

wrongfully fled from the police but complains that he was not “*Mirandized*” before questioning and was then falsely charged with felony offenses that he did not commit. He seeks no damages, only this: “I request this [the criminal] case be dismissed and for me to go home! (I will accept my obstruction by fleeing misdemeanor charge time served).” *Id.* at 10. The attached print-out shows that the state-court prosecution that was pending when he filed this case has since ended in a conviction.

This case must be dismissed.² It is well established that “a prisoner in state custody cannot use a § 1983 action to challenge ‘the fact or duration of his confinement.’” *Wilkinson v. Dotson*, 544 U.S. 74, 77 (2005) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973)). Where a state prisoner is seeking immediate or speedier release from custody “his sole federal remedy is a writ of habeas corpus.” *Preiser*, 411 U.S. at

² As Jackson is proceeding *in forma pauperis* (“IFP”), his action is subject to immediate dismissal if the Court determines that it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. § 1915(e)(2) (allowing the dismissal of IFP actions “at any time” they are determined to raise non-cognizable claims); 28 U.S.C. § 1915A (requiring early screening of all prisoner/detainee complaints against governmental entities or officials and the dismissal of non-cognizable claims).

500. But before he can seek federal habeas relief, he must first exhaust his state court remedies, 28 U.S.C. § 2254(b)(c); *Wilkinson*, 544 U.S. at 79, which he clearly has not done given the recency of his conviction and sentence.

Given the sheer frivolity of his complaint, it must be **DISMISSED WITH PREJUDICE** and a re-pleading option is not warranted. *See Langlois v. Traveler's Ins. Co.*, 401 F. App'x 425, 426-27 (11th Cir. 2010); *Dysart v. BankTrust*, 516 F. App'x 861, 865 (11th Cir. 2013) (“district court did not err in denying Dysart's request to amend her complaint because an amendment would have been futile.”); *Simmons v. Edmondson*, 225 F. App'x 787, 788-89 (11th Cir. 2007) (district court did not err in dismissing complaint with prejudice without first giving plaintiff leave to amend because no amendment could have overcome the defendants' immunity).

Meanwhile, Jackson must pay his \$350 filing fee. His furnished account information shows that he has had a \$51.67 average monthly balance in his prison account during the past six months. Doc. 9. He therefore owes a \$10.11 initial partial filing fee. *See* 28 U.S.C. § 1915(b) (1) (requiring an initial fee assessment “when funds exist,” under a

specific 20 percent formula). Plaintiff's custodian (or designee) therefore shall set aside 20 percent of all future deposits to the account, then forward those funds to the Clerk each time the set aside amount reaches \$10.00, until the balance of the Court's \$350.00 filing fee has been paid in full.

Also, the Clerk is **DIRECTED** to send this Order to plaintiff's account custodian immediately. In the event plaintiff is transferred to another institution, his present custodian shall forward a copy of this Order and all financial information concerning payment of the filing fee and costs in this case to plaintiff's new custodian. The balance due from the plaintiff shall be collected by the custodian at his next institution in accordance with the terms of this Order.³

SO REPORTED AND RECOMMENDED this 8th day of October, 2015.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

³ Jackson is reminded that the \$350 filing fees in these cases *will be collected*, however long it takes, from his prison accounts. The mere fact that he has been granted IFP status does not excuse his cumulative, \$1,400 fee debt; all he has been granted here is the option to pay that \$1,400 on § 1915's installment plan.



CHATHAM COUNTY, GA

Eastern Judicial Circuit of Georgia

[Home](#)
[Juvenile Court](#)
[Magistrate Court](#)
[Probate Court](#)
[Recorder's Court](#)
[State Court](#)
[Superior Court](#)
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October 08, 2015

Location: [Case Details](#)

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Case Details

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State
VS.
JACKSON, RODERICK BO

■ [Case Events](#)■ [Charges](#)■ [Parties](#)■ [Proceedings](#)

Case Information

Court: Superior
Case Number: CR132650
Case Type: CRIM ATT-ARMED ROBBERY
Judge: HONORABLE MICHAEL KARPf
Assistant District Attorney: BOONE PHILLIPS
Date Filed: 12/18/2013
Status: CLOSED - JURY GUILTY
Disposition Date: 8/7/2015
Disposition: JURY GUILTY

Defendant Information

Name: JACKSON, RODERICK BO
DIN: P0407495
Gender: MALE
Race: AFRICAN AMERICAN
Height: 74
Weight: 138
Eyes: BROWN
Hair: BLACK

Attorney Information

N/A

Bondsman Information

N/A

Case Events

Date	Time	Code	Judge	Action
9/29/2015 11:37:23 AM	11:37AM	TRANSCRIPT RECEIVED		
9/29/2015 11:36:18 AM	11:36AM	TRANSCRIPT RECEIVED		
9/15/2015 12:52:21 PM	12:52PM	TRANSCRIPT RECEIVED		
9/11/2015 1:46:55 PM	1:46PM	TRANSCRIPT RECEIVED		
8/7/2015	09:05AM	SEN	MICHAEL KARPf	
7/14/2015	09:30AM	JURY TRIAL	MICHAEL KARPf	
7/7/2015	09:30AM	JURY TRIAL DOCKET REVIEW	MICHAEL KARPf	
6/29/2015	09:35AM	MOTION HEARING (MTH)	MICHAEL KARPf	
6/26/2015	09:05AM	MOTION HEARING (MTH)	MICHAEL KARPf	
6/10/2015 12:17:40 PM	12:17PM	TRANSCRIPT RECEIVED		
5/26/2015	09:30AM	JURY TRIAL DOCKET REVIEW	MICHAEL KARPf	RESCHEDULE EVENT
5/7/2015 12:53:03 PM	12:53PM	TRANSCRIPT RECEIVED		
5/1/2015	09:05AM	MOTION HEARING (MTH)	MICHAEL KARPf	
4/14/2015	09:30AM	JURY TRIAL DOCKET REVIEW	MICHAEL KARPf	
4/10/2015	09:05AM	MOTION HEARING (MTH)	MICHAEL KARPf	
2/2/2015	09:30AM	JURY TRIAL	MICHAEL KARPf	
1/26/2015	09:30AM	JURY TRIAL	MICHAEL KARPf	
1/13/2015	09:30AM	JURY TRIAL DOCKET REVIEW	MICHAEL KARPf	
10/16/2014	2:31PM	ARRAIGN/TRIAL DOCKET CALL	PENNY FREESEMAN	
9/2/2014	2:02PM	ARRAIGN/TRIAL DOCKET CALL	PENNY FREESEMAN	
8/8/2014	2:30PM	MOTION HEARING (MTH)	PENNY FREESEMAN	
6/16/2014	11:00AM	PRETRIAL CONFERENCE	PENNY FREESEMAN	
5/8/2014	10:30AM	ARRAIGNMENT/CALENDAR CALL	PENNY FREESEMAN	

5/5/2014	09:30AM	ARRAIGNMENT/CALENDAR CALL	PENNY FREESEMAN	RESCHEDULE EVENT
3/11/2014	2:30PM	STATUS CONFERENCE HEARING	PENNY FREESEMAN	

[\[Return to Top\]](#)

Charges

Charge	Description	Counts	Severity	Charge Date	Disposition
16-10-24	OBSTRUCTION	1	MISDEMEANOR	9/30/2013 5:28:15 PM	Guilty 7/17/2015
Sentencing Details: Description			Fine	Duration	
			\$0.00	12 Months-PRISON	
16-11-131	POSSESS FIREARM BY CONVICTED FELON	1	FELONY	9/30/2013 5:28:27 PM	Guilty 7/17/2015
Sentencing Details: Description			Fine	Duration	
CONSEC TO Count 7			\$0.00	5 Years-PRISON	
16-4-1	CRIMINAL ATTEMPT	1	FELONY	12/19/2013	Not Guilty 7/17/2015
16-11-106	POSS FIREARM/KNIFE IN COMMITTING CRIME	1	FELONY	12/19/2013	Not Guilty 7/17/2015
16-4-1	CRIMINAL ATTEMPT	1	FELONY	12/19/2013	Not Guilty 7/17/2015
16-11-106	POSS FIREARM/KNIFE IN COMMITTING CRIME	1	FELONY	12/19/2013	Not Guilty 7/17/2015
16-4-1	CRIMINAL ATTEMPT	1	FELONY	12/19/2013	Guilty 7/17/2015
Sentencing Details: Description			Fine	Duration	
			\$0.00	10 Years-PRISON	
16-11-106	POSS FIREARM/KNIFE IN COMMITTING CRIME	1	FELONY	12/19/2013	Guilty 7/17/2015
Sentencing Details: Description			Fine	Duration	
			\$0.00	5 Years-PRISON	
16-5-24	AGGRAVATED BATTERY	1	FELONY	12/19/2013	Guilty 7/17/2015
Sentencing Details: Description			Fine	Duration	
			\$0.00	20 Years-PRISON	

[\[Return to Top\]](#)

Proceedings

9/29/2015 11:37:23 AM	11:37AM	TRANSCRIPT RECEIVED			07/14-17/15 MASTER INDEX TO JURY TRIAL TRANSCRIPT, JUDGE KARPf PRESIDING
9/29/2015 11:36:18 AM	11:36AM	TRANSCRIPT RECEIVED			07/14-17/15 VOLUME 2, JURY TRIAL TRANSCRIPT, JUDGE KARPf PRESIDING
9/29/2015		PRO SE MOTION		MICHAEL KARPf	MTN FOR EXTENSION OF TIME TO FILE TRANSCRIPTS/
9/16/2015		MEMORANDUM			
9/15/2015 12:52:21 PM	12:52PM	TRANSCRIPT RECEIVED			07/14-17/15 VOLUME 1, JURY TRIAL TRANSCRIPT, JUDGE KARPf PRESIDING
9/11/2015 1:46:55 PM	1:46PM	TRANSCRIPT RECEIVED			08-07-15 SENTENCING HEARING, JUDGE KARPf PRESIDING
8/28/2015		PRO SE MOTION			MTN FOR EXTENSION OF TIME TO FILE TRANSCRIPT/
8/25/2015		PRO SE MOTION		MICHAEL KARPf	MTN FOR NEW TRIAL/
8/21/2015		VERDICT			
8/12/2015		PRO SE LETTER RECEIVED			REQUEST GRAND JURY TRANSCRIPTS/
8/7/2015		EXHIBIT & WITNESS LIST			
8/7/2015		STATEMENT OF APPEAL			
8/7/2015		CASE DISPOSED	GUILTY	MICHAEL KARPf	CASE DISPOSED GT
8/7/2015	09:05AM	SEN		MICHAEL KARPf	
7/17/2015		VERDICT			RECEIPT FOR EVIDENCE/EXHIBIT AND WITNESS LIST/

7/15/2015		PRO SE MOTION		MICHAEL KARPFF	MTN TO QUASH INCITMENT/
7/15/2015		STATE'S JURY CHARGES			DEF REQ TO CHARGE/PET FOR USE IMMUNITY FOR WITNESS/ORDER GRANTING USE IMMUNITY TO WITNESS-KEVIN GROGAN/
7/14/2015	09:30AM	JURY TRIAL		MICHAEL KARPFF	
7/10/2015		ENTRY OF APPEARANCE			ASSISTING PRO SE DEF-THOMAS BATESKI
7/9/2015		LIST OF WITNESSES			
7/7/2015	09:30AM	JURY TRIAL DOCKET REVIEW		MICHAEL KARPFF	
7/2/2015		STATES SUPPLEMENTAL DISCOVERY			NTC OF RECIDIVIST PROSECUTION/NTC OF INTENT TO INTRO EVIDENCE IN AGGRAVATION/NTC OF INTENT TO IMPEACH WITH PRIOR CONVICTION/LIST OF WITNESSES/NTC OF STATE INTENTION TO OFFER RECORDED JAIL VISITS INTO EVIDENCE/
6/29/2015		EXHIBIT & WITNESS LIST			
6/29/2015		LIST OF WITNESSES			
6/29/2015		NOTICE - OF INTENT			BY STATE TO OFFER 911 CALL AND POLICE RADIO TRAFFIC INTO EVIDENCE UNDER OCGA 24-8-803/24-9-902
6/29/2015		LIST OF WITNESSES			
6/29/2015	09:35AM	MOTION HEARING (MTH)		MICHAEL KARPFF	
6/26/2015	09:05AM	MOTION HEARING (MTH)		MICHAEL KARPFF	
6/10/2015 12:17:40 PM	12:17PM	TRANSCRIPT RECEIVED			05-01-15 MOTION HEARING, JUDGE KARPFF PRESIDING
6/10/2015		PRO SE MOTION			MTN RESERVING THE RIGHT TO FILE ADDITIONAL MTNS/
5/29/2015		SPECIAL DEMURRER			MY STATEMENT OF INNOCENCE/
5/28/2015		PRO SE MOTION			MTN FOR DISCLOSURE OF IMPEACHING INFO/
5/26/2015	09:30AM	JURY TRIAL DOCKET REVIEW	RESCHEDULE EVENT	MICHAEL KARPFF	
5/8/2015		PRO SE MOTION			MTN FOR DISCLOSURE OF SIMILAR OR EXTRINSIC ACT EVIDENCE AND FOR A PRETRIAL HEARING TO DETERMINE THE AMISSIBILITY OF ANY ACTS ALLEGED BY THE STATE TO BE SIMILAR TRANSACTION/
5/7/2015 12:53:03 PM	12:53PM	TRANSCRIPT RECEIVED			04-14-15 JURY DOCKET REVIEW, JUDGE KARPFF PRESIDING
5/4/2015		ORDER			MTN TO SUPPRESS-DENIED/MTN TO CONTINUE-GRANTED/MTN TO DEMURRER-DENIED/
5/1/2015	09:05AM	MOTION HEARING (MTH)		MICHAEL KARPFF	
4/29/2015		PRO SE MOTION			CONSOLIDATED MTNS PKG/
4/27/2015		PRO SE LETTER RECEIVED			
4/23/2015		PRO SE MOTION			MTN TO ACT PRO SE WITH ASSISTANCE OF COUNSEL/
4/21/2015		PRO SE MOTION			MTN TO SUPPRESS/
4/20/2015		PRO SE MOTION			MTN TO COMPEL/MTN FOR EXTENSION OF TIME TO PREPARE TRIAL DEFENSE/
4/14/2015		PRO SE MOTION			SPECIAL DEMURRER AND MTN TO DISMISS THE INDICTMENT/
4/14/2015	09:30AM	JURY TRIAL DOCKET REVIEW		MICHAEL KARPFF	
4/10/2015	09:05AM	MOTION HEARING (MTH)		MICHAEL KARPFF	
4/9/2015		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			

3/20/2015		ORDER			MTN TO WITHDRAW ATTY SOLOMON AMUSAN-GRANTED/
3/11/2015		MOTION - TO WITHDRAW ATTY			SOLOMON AMUSAN/
3/2/2015		PRO SE LETTER RECEIVED			
2/2/2015	09:30AM	JURY TRIAL		MICHAEL KARPFF	
1/30/2015		STATES SUPPLEMENTAL DISCOVERY			
1/28/2015		LIST OF WITNESSES			
1/26/2015		MOTION - IN LIMINE			TO EXCLUDE THE USE OF THE PREJUDICIAL TERM VICTIM/MTN IN LIMINE/
1/26/2015	09:30AM	JURY TRIAL		MICHAEL KARPFF	
1/20/2015		LIST OF WITNESSES			
1/20/2015		NOTICE TO CLERK OF SUPERIOR COURT			
1/13/2015	09:30AM	JURY TRIAL DOCKET REVIEW		MICHAEL KARPFF	
12/4/2014		ORDER			OMNIBUS ORDER/ STATE'S MOTION TO DISMISS MOTION TO SUPPRESS - GRANTED DEFENDANT'S JACKSON-DENNO MOTION AND STATE'S MOTION IN LIMINE REGARDING SELF-SERVING STATEMENTS - GRANTS/ DEFENDANT'S MOTION TO SUPPRESS IDENTIFICATION - DENIED/ STATES 404(B) MOTION - GRANTED/
10/23/2014		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
10/16/2014	2:31PM	ARRAIGN/TRIAL DOCKET CALL		PENNY FREESEMAN	
9/5/2014		TRANSCRIPT RECEIVED			MOTIONS HEARING AUGUST 8,2014
9/2/2014	2:02PM	ARRAIGN/TRIAL DOCKET CALL		PENNY FREESEMAN	
8/20/2014		BRIEF			STATE'S BRIEF IN SUPPORT OF ADMISSIONS OF TRANSACTIONS PROFFERED (404)B/
8/12/2014		STATES DISC RESTRICTED ACCESS 35-3-38			PURSUANT TO O.C.G.A.\$35-6-38/
8/8/2014		EXHIBIT & WITNESS LIST			
8/8/2014		MOTION - IN LIMINE	GRANTED		REGARDING SELF SERVING STATEMENTS/
8/8/2014	2:30PM	MOTION HEARING (MTH)		PENNY FREESEMAN	
7/28/2014		LIST OF WITNESSES			
7/21/2014		ORDER			ORDER ON DEF MOTION FOR EXTENSION OF TIME TO FILE ADD MOTIONS-GRANTED/
7/15/2014		MOTION	GRANTED		MOTION FOR EXTENSION OF TIME TO FILE ADDITIONAL MOTIONS/
7/8/2014		STATES SUPPLEMENTAL DISCOVERY			AMENDED/
7/8/2014		NOTICE OF TRANSACTIONS PUR OCGA 24-4-404(B)	GRANTED		
7/1/2014		STATES DISC RESTRICTED ACCESS 35-3-38			SEALED RECORDS/
6/27/2014		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
6/16/2014		PRETRIAL CONF SCHED ORDER			
6/16/2014	11:00AM	PRETRIAL CONFERENCE		PENNY FREESEMAN	
5/20/2014		ORDER			ORDER ON DEFENDANT'S PRO SE MOTION (1) JANUARY 15, 2014, DEMURRER AND MOTION TO DISMISS THE INDICTMENT (2) JANUARY 15, 2014 MOTION TO COMPEL - DISMISSED/

5/8/2014	10:30AM	ARRAIGNMENT/CALENDAR CALL		PENNY FREESEMAN	
5/5/2014	09:30AM	ARRAIGNMENT/CALENDAR CALL	RESCHEDULE EVENT	PENNY FREESEMAN	
4/7/2014		CONSOLIDATED MOTIONS PACKAGE			DEFENDANT'S DISCOVERY REQUEST AND NOTICE OF DEFENDANT'S ELECTION TO PROCEED/
4/7/2014		DEFENDANTS ELECTION TO PROCEED UNDER OCGA 17-16-1			
3/14/2014		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
3/11/2014	2:30PM	STATUS CONFERENCE HEARING		PENNY FREESEMAN	
1/15/2014		PRO SE MOTION	DISMISSED		MOTION TO COMPEL/
1/15/2014		PRO SE MOTION	DISMISSED		DEMURRER AND MOTION TO DISMISS THE INDICTMENT/
1/10/2014		CONSOLIDATED MOTIONS PACKAGE			
12/31/2013		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
12/19/2013 10:54:09 AM		SCN			INITIAL CASE SCREENING / SCANNING
12/18/2013		INDICTMENT			

[\[Return to Top\]](#)
[Home](#) | [Juvenile Court](#) | [Magistrate Court](#) | [Probate Court](#) | [Recorder's Court](#) | [State Court](#) | [Superior Court](#) | [Court Forms](#) | [Court Fees](#)

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